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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

In re:

PG&E CORPORATION,

- and -

**PACIFIC GAS AND ELECTRIC
COMPANY,**

Debtors.

- ☐ Affects PG&E Corporation
☐ Affects Pacific Gas and Electric
Company
☒ Affects both Debtors

** All papers shall be filed in the Lead
Case, No. 19-30088 (DM).*

Case No. 19-30088 (DM)

Chapter 11

(Lead Case) (Jointly Administered)

**PLAN PROPONENTS' OPPOSITION TO EX PARTE
MOTION TO RECALL JOHN BOKEN AND
KENNETH ZIMAN FOR FURTHER CROSS-
EXAMINATION**

Relates to Docket No. 7934

1 The Plan Proponents hereby submit this Opposition to the *Ex Parte Motion to Recall John*
2 *Boken and Kenneth Ziman for Further Cross-Examination*, filed by certain fire victims [Docket No.
3 7934] (the “**Ex Parte Motion**”).

4 **I. RESPONSE**

5 Unhappy with how the votes came in with respect to the Plan, certain fire victims, led by
6 GER Hospitality, LLC (the “**Movants**”), continue their quest to thwart the will of the overwhelming
7 majority of fire victims who voted in favor of the Plan. Movants’ latest gambit is to claim that
8 witnesses at the confirmation hearing gave inconsistent and “questionable” testimony regarding the
9 impact of COVID-19 that requires these witnesses to be recalled for further examination. The basis
10 for these assertions is premised entirely on the mistaken belief that a declaration Mr. Ziman provided
11 on June 9, 2020 in support of the Debtors’ motion for entry of an order amending the equity
12 backstop agreements, somehow is inconsistent with the testimony Mr. Ziman and Mr. Boken gave in
13 connection with the confirmation hearing. The Movants are wrong and there is no inconsistency.
14 The Movants confuse the impact COVID-19 may have on the financial markets and the utility sector
15 with the impact it may have on the Debtors’ financial projections and their ability to meet their
16 obligations under the Plan. In fact, not only is Mr. Ziman’s June 9, 2020 declaration (“**Ziman June**
17 **Declaration**”) [Docket No. 7849] entirely consistent with his and Mr. Boken’s prior testimony, it
18 actually underscores the point Mr. Ziman made during the confirmation hearing that the Debtors
19 would look to raise equity capital at the best possible price and through the most effective method.
20 See Mr. Ziman’s 5/22/20 Decl. (“**Ziman May Declaration**”) [Docket No. 7512], ¶ 13; see also,
21 Confirmation Hr’g Tr. 6/1/20 at pp 39:9-40:1, 53:14-54:6.

22 Both Mr. Ziman and Mr. Boken testified as to the Debtors’ ability to effectuate their Plan and
23 their ability to meet their obligations. Notably, Mr. Ziman made it abundantly clear that regardless
24 of the market, the Debtors have the commitments for all of the financing and capital needed to fund
25 their emergence from Chapter 11 and to satisfy all of their obligations on an ongoing basis post-
26 emergence. For example, in the Ziman May Declaration, Mr. Ziman testified that, “I believe that the
27 Debtors will have the necessary sources of financing in order to emerge from these Chapter 11 Cases
28

1 in a timely manner, and to meet their obligations under the Plan.” Ziman May Declaration ¶ 16; *see*
 2 *also* Confirmation Hr’g Tr. 6/1/20 at 6:1-13, 10:8-11:3, 49:2-16. He also made the point that even
 3 though the equity backstop commitments remain in full force and effect and will be available if
 4 necessary, “the best way to raise equity is through a public market offering.” Confirmation Hr’g Tr.
 5 6/1/20 at 9:21-10:7, 57:21-58:5. Similarly, Mr. Boken testified that “based on what we have
 6 observed and learned to date, taking into account that assessment [referring to COVID-19], it is my
 7 opinion that these recent developments are not expected to have a material impact on the Financial
 8 Projections or the Debtors’ ability to meet their obligations under the Plan.” Mr. Boken’s 5/22/20
 9 Decl. [Docket No. 7514], ¶ 11; *see also* Confirmation Hr’g Tr. 5/29/20 at 41:4-19. The confirmation
 10 hearing testimony thus addressed what impact COVID-19 might have on the Debtors’ ability to meet
 11 their obligations, and on that score the testimony was clear and uncontroverted—the funds necessary
 12 for emergence from Chapter 11 were committed and, regardless of COVID-19, the Debtors will have
 13 sufficient resources and capital to meet their obligations under the Plan and going forward post-
 14 emergence.

15 Nothing in the Ziman June Declaration relating to amendments to the backstop commitments
 16 undermines or is inconsistent with Mr. Ziman’s or Mr. Boken’s hearing testimony in any way.
 17 Rather, that declaration addresses the optimum method to raise equity capital, not whether that
 18 capital will or will not be available. It further explains that the amendments to the backstop
 19 commitments “significantly *enhance* the Debtors’ flexibility in financing their emergence from the
 20 Chapter 11 Cases, while increasing overall equity value and protecting current and future
 21 shareholder value.” Ziman June Declaration ¶ 11 (emphasis added). This is entirely consistent with
 22 Mr. Ziman’s prior testimony in seeking the best avenue to raise the equity. COVID-19’s impact on
 23 market conditions may have made amendments to the equity backstop commitments preferable so
 24 that the Debtors could find the most attractive way to use the public markets to raise equity, while
 25 also continuing to maintain the equity backstops as a fail-safe. *See* Ziman June Declaration ¶ 13.
 26 But that is by no means contradictory to, or inconsistent with, any of the prior testimony regarding
 27 the Debtors’ ability to raise the necessary sources of funding or their ability to meet their obligations
 28

1 under the Plan, notwithstanding the COVID-19 pandemic. Indeed, Mr. Ziman's and Mr. Boken's
2 hearing testimony is further confirmed by the fact that the Debtors have obtained \$3.25 billion in
3 PIPE commitments as part of their equity raise strategy. See Ziman June Declaration ¶ 15.

4 **II. CONCLUSION**

5 For the reasons stated above, there is nothing in the Ex Parte Motion to support recalling
6 either Mr. Ziman or Mr. Boken for further testimony or to reopen the confirmation hearing.
7 Movants' latest effort to derail the Plan should be rejected and the Ex Parte Motion denied.

8
9 Dated: June 15, 2020

10 **WEIL, GOTSHAL & MANGES LLP**
11 **KELLER BENVENUTTI KIM LLP**

12 /s/ Theodore E. Tsekerides

Theodore E. Tsekerides

13 *Attorneys for Debtors and Debtors in Possession*
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